

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 457

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO INSURANCE; REQUIRING GROUP HEALTH CARE COVERAGE OF
UNMARRIED DEPENDENTS UNTIL THEIR TWENTY-FIFTH BIRTHDAY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-7-1 NMSA 1978 (being Laws 1997,
Chapter 74, Section 1) is amended to read:

"13-7-1. SHORT TITLE. -- [~~Sections 1 through 4 of this act]~~
Chapter 13, Article 7 NMSA 1978 may be cited as the "Health
Care Purchasing Act". "

Section 2. A new section of the Health Care Purchasing
Act is enacted to read:

"[NEW MATERIAL] MAXIMUM AGE OF DEPENDENT. -- Any group
health care coverage, including any form of self-insurance,
offered, issued or renewed under the Health Care Purchasing Act
on or after July 1, 2003 that offers coverage of an insured's

1 dependent shall not terminate coverage of an unmarried
2 dependent by reason of the dependent's age before the
3 dependent's twenty-fifth birthday. "

4 Section 3. A new section of Chapter 59A, Article 23 NMSA
5 1978 is enacted to read:

6 "[NEW MATERIAL] MAXIMUM AGE OF DEPENDENT. -- Each blanket or
7 group health policy or certificate of insurance delivered,
8 issued for delivery or renewed in New Mexico on or after July
9 1, 2003 that provides coverage for an insured's dependent shall
10 not terminate coverage of an unmarried dependent by reason of
11 the dependent's age before the dependent's twenty-fifth
12 birthday. "

13 Section 4. Section 59A-23D-2 NMSA 1978 (being Laws 1995,
14 Chapter 93, Section 2, as amended by Laws 1997, Chapter 243,
15 Section 27 and also by Laws 1997, Chapter 254, Section 2) is
16 amended to read:

17 "59A-23D-2. DEFINITIONS. -- As used in the Medical Care
18 Savings Account Act:

19 A. "account administrator" means any of the
20 following that administers medical care savings accounts:

- 21 (1) a national or state chartered bank,
22 savings and loan association, savings bank or credit union;
23 (2) a trust company authorized to act as a
24 fiduciary in this state;
25 (3) an insurance company or health maintenance

organization authorized to do business in this state pursuant to the New Mexico Insurance Code; or

1 (4) a person approved by the federal secretary
2 of health and human services [~~secretary~~];

3 B. "deductible" means the total covered medical
4 expense an employee or his dependents must pay prior to any
5 payment by a qualified higher deductible health plan for a
6 calendar year;

7 C. "department" means the [~~department of~~] insurance
8 division of the public regulation commission;

9 D. "dependent" means:

10 (1) a spouse;

11 (2) an unmarried or unemancipated child of the
12 employee who is a minor and who is:

13 (a) a natural child;

14 (b) a legally adopted child;

15 (c) a stepchild living in the same
16 household who is primarily dependent on the employee for
17 maintenance and support;

18 (d) a child for whom the employee is the
19 legal guardian and who is primarily dependent on the employee
20 for maintenance and support, as long as evidence of the
21 guardianship is evidenced in a court order or decree; or

22 (e) a foster child living in the same
23 household, if the child is not otherwise provided with health
24 care or health insurance coverage;

1 (3) an unmarried child described in
2 Subparagraphs (a) through (e) of Paragraph (2) of this
3 subsection who is between the ages of eighteen and twenty-five
4 ~~[and is a full-time student at an accredited educational~~
5 ~~institution; provided, "full-time student" means a student is~~
6 ~~enrolled in and taking twelve or more semester hours or~~
7 ~~equivalent contact hours in secondary, undergraduate or~~
8 ~~vocational school or nine or more semester hours or equivalent~~
9 ~~contact hours in graduate school]; or~~

10 (4) a child over the age of eighteen who is
11 incapable of self-sustaining employment by reason of mental
12 retardation or physical handicap and who is chiefly dependent
13 on the employee for support and maintenance;

14 E. "eligible individual" means an individual who
15 with respect to any month:

16 (1) is covered under a qualified higher
17 deductible health plan as of the first day of that month;

18 (2) is not, while covered under a qualified
19 higher deductible health plan, covered under any health plan
20 that:

21 (a) is not a qualified higher deductible
22 health plan; and

23 (b) provides coverage for any benefit
24 that is covered under the qualified higher deductible health
25 plan; and

(3) is covered by a qualified higher deductible health plan that is established and maintained by the employer of the individual or of the spouse of the individual;

F. "eligible medical expense" means an expense paid by the employee for medical care described in Section 213(d) of the Internal Revenue Code of 1986 that is deductible for federal income tax purposes to the extent that those amounts are not compensated for by insurance or otherwise;

G. "employee" includes a self-employed individual;

H. "employer" includes a self-employed individual;

I. "medical care savings account" or "savings account" means an account established by an employer in the United States exclusively for the purpose of paying the eligible medical expenses of the employee or dependent, but only if the written governing instrument creating the trust meets the following requirements:

(1) except in the case of a rollover contribution, no contribution will be accepted:

(a) unless it is in cash; or

(b) to the extent the contribution, when added to previous contributions to the trust for the calendar year, exceeds seventy-five percent of the highest annual limit deductible permitted pursuant to the Medical Care Savings Account Act;

(2) no part of the trust assets will be

1 invested in life insurance contracts;

2 (3) the assets of the trust will not be
3 commingled with other property except in a common trust fund or
4 common investment fund; and

5 (4) the interest of an individual in the
6 balance in his account is nonforfeitable;

7 J. "program" means the medical care savings account
8 program established by an employer for his employees; and

9 K. "qualified higher deductible health plan" means
10 a health coverage policy, certificate or contract that provides
11 for payments for covered health care benefits that exceed the
12 policy, certificate or contract deductible, that is purchased
13 by an employer for the benefit of an employee and that has the
14 following deductible provisions:

15 (1) self-only coverage with an annual
16 deductible of not less than one thousand five hundred dollars
17 (\$1,500) or more than two thousand two hundred fifty dollars
18 (\$2,250) and a maximum annual out-of-pocket expense requirement
19 of three thousand dollars (\$3,000), not including premiums;

20 (2) family coverage with an annual deductible
21 of not less than three thousand dollars (\$3,000) or more than
22 four thousand five hundred dollars (\$4,500) and a maximum
23 annual out-of-pocket expense requirement of five thousand five
24 hundred dollars (\$5,500), not including premiums; and

25 (3) preventive care coverage may be provided

within the policies without the preventive care being subjected to the qualified higher deductibles. "

1 Section 5. A new section of the Health Maintenance
2 Organization Law is enacted to read:

3 "[NEW MATERIAL] MAXIMUM AGE OF DEPENDENT. -- Each group
4 health maintenance organization contract delivered or issued
5 for delivery in New Mexico on or after July 1, 2003 that
6 provides coverage for an enrollee's dependents shall not
7 terminate coverage of an unmarried dependent by reason of the
8 dependent's age before the dependent's twenty-fifth birthday;
9 provided that this requirement does not apply to the medicaid
10 managed care system. "

11 Section 6. Section 59A-47-1 NMSA 1978 (being Laws 1984,
12 Chapter 127, Section 878) is amended to read:

13 "59A-47-1. SHORT TITLE. -- [~~This article~~] Chapter 59A,
14 Article 47 NMSA 1978 may be cited as the "Nonprofit Health Care
15 Plan Law". "

16 Section 7. A new section of the Nonprofit Health Care
17 Plan Law is enacted to read:

18 "[NEW MATERIAL] MAXIMUM AGE OF DEPENDENT. -- Any group
19 subscriber contract offered, issued or renewed in New Mexico on
20 or after July 1, 2003 that provides coverage of a subscriber's
21 dependents shall not terminate coverage of an unmarried
22 dependent by reason of the dependent's age before the
23 dependent's twenty-fifth birthday. "

24 Section 8. Section 59A-56-3 NMSA 1978 (being Laws 1994,
25

1 Chapter 75, Section 3, as amended) is amended to read:

2 "59A-56-3. DEFINITIONS. -- As used in the Health Insurance
3 Alliance Act:

4 A. "alliance" means the New Mexico health insurance
5 alliance;

6 B. "approved health plan" means any arrangement for
7 the provisions of health insurance offered through and approved
8 by the alliance;

9 C. "board" means the board of directors of the
10 alliance;

11 D. "child" means a dependent unmarried individual
12 who is less than [~~nineteen years of age or an unmarried~~
13 ~~individual who is enrolled full time in an accredited~~
14 ~~educational institution until the individual becomes]~~ twenty-
15 five years of age;

16 E. "creditable coverage" means, with respect to an
17 individual, coverage of the individual pursuant to:

- 18 (1) a group health plan;
19 (2) health insurance coverage;
20 (3) Part A or Part B of Title 18 of the
21 federal Social Security Act;
22 (4) Title 19 of the federal Social Security
23 Act except coverage consisting solely of benefits pursuant to
24 Section 1928 of that title;
25 (5) 10 USCA Chapter 55;

. 145514. 1

(6) a medical care program of the Indian health service or of an Indian nation, tribe or pueblo;

(7) the ~~[Comprehensive Health]~~ Medical Insurance Pool Act;

(8) a health plan offered pursuant to 5 USCA Chapter 89;

(9) a public health plan as defined in federal regulations; or

(10) a health benefit plan offered pursuant to Section 5(e) of the federal Peace Corps Act;

F. "department" means the ~~[department of]~~ insurance division of the commission;

G. "director" means an individual who serves on the board;

H. "earned premiums" means premiums paid or due during a calendar year for coverage under an approved health plan less any unearned premiums at the end of that calendar year plus any unearned premiums from the end of the immediately preceding calendar year;

I. "eligible expenses" means the allowable charges for a health care service covered under an approved health plan;

J. "eligible individual":

(1) means an individual who:

(a) as of the date of the individual's application for coverage under an approved health plan, has an

1 aggregate of eighteen or more months of creditable coverage,
2 the most recent of which was under a group health plan,
3 governmental plan or church plan as those plans are defined in
4 Subsections P, N and D of Section 59A-23E-2 NMSA 1978,
5 respectively, or health insurance offered in connection with
6 any of those plans, but for the purposes of aggregating
7 creditable coverage, a period of creditable coverage shall not
8 be counted with respect to enrollment of an individual for
9 coverage under an approved health plan if, after that period
10 and before the enrollment date, there was a sixty-three-day or
11 longer period during all of which the individual was not
12 covered under any creditable coverage; or

13 (b) is entitled to continuation coverage
14 pursuant to Section 59A-56-20 or 59A-23E-19 NMSA 1978; and

15 (2) does not include an individual who:

16 (a) has or is eligible for coverage
17 under a group health plan;

18 (b) is eligible for coverage under
19 medicare or a state plan under Title 19 of the federal Social
20 Security Act or any successor program;

21 (c) has health insurance coverage as
22 defined in Subsection R of Section 59A-23E-2 NMSA 1978;

23 (d) during the most recent coverage
24 within the coverage period described in Subparagraph (a) of
25 Paragraph (1) of this subsection was terminated from coverage

. 145514. 1

as a result of nonpayment of premium or fraud; or

(e) has been offered the option of coverage under a COBRA continuation provision as that term is defined in Subsection F of Section 59A-23E-2 NMSA 1978, or under a similar state program, except for continuation coverage under Section 59A-56-20 NMSA 1978, and did not exhaust the coverage available under the offered program;

K. "enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for that enrollment;

L. "gross earned premiums" means premiums paid or due during a calendar year for all health insurance written in the state less any unearned premiums at the end of that calendar year plus any unearned premiums from the end of the immediately preceding calendar year;

M "group health plan" means an employee welfare benefit plan to the extent the plan provides hospital, surgical or medical expenses benefits to employees or their dependents, as defined by the terms of the plan, directly through insurance, reimbursement or otherwise;

N. "health care service" means a service or product furnished an individual for the purpose of preventing, alleviating, curing or healing human illness or injury and includes services and products incidental to furnishing the

1 described services or products;

2 0. "health insurance" means "health" insurance as
3 defined in Section 59A-7-3 NMSA 1978; any hospital and medical
4 expense-incurred policy; nonprofit health care plan service
5 contract; health maintenance organization subscriber contract;
6 short-term, accident, fixed indemnity, specified disease policy
7 or disability income insurance contracts and limited health
8 benefit or credit health insurance; coverage for health care
9 services under uninsured arrangements of group or group-type
10 contracts, including employer self-insured, cost-plus or other
11 benefits methodologies not involving insurance or not subject
12 to New Mexico premium taxes; coverage for health care services
13 under group-type contracts that are not available to the
14 general public and can be obtained only because of connection
15 with a particular organization or group; coverage by medicare
16 or other governmental programs providing health care services;
17 but "health insurance" does not include insurance issued
18 pursuant to provisions of the Workers' Compensation Act or
19 similar law, automobile medical payment insurance or provisions
20 by which benefits are payable with or without regard to fault
21 and are required by law to be contained in any liability
22 insurance policy;

23 P. "health maintenance organization" means a health
24 maintenance organization as defined by Subsection M of Section
25 59A-46-2 NMSA 1978;

. 145514. 1

underscored material = new
[bracketed material] = delete

1 Q. "incurred claims" means claims paid during a
2 calendar year plus claims incurred in the calendar year and
3 paid prior to April 1 of the succeeding year, less claims
4 incurred previous to the current calendar year and paid prior
5 to April 1 of the current year;

6 R. "insured" means a small employer or its employee
7 and an individual covered by an approved health plan, a former
8 employee of a small employer who is covered by an approved
9 health plan through conversion or an individual covered by an
10 approved health plan that allows individual enrollment;

11 S. "medicare" means coverage under both Parts A and
12 B of Title 18 of the federal Social Security Act;

13 T. "member" means a member of the alliance;

14 U. "nonprofit health care plan" means a "health
15 care plan" as defined in Subsection K of Section 59A-47-3 NMSA
16 1978;

17 V. "premiums" means the premiums received for
18 coverage under an approved health plan during a calendar year;

19 W. "small employer" means a person that is a
20 resident of this state, has employees at least fifty percent of
21 whom are residents of this state, is actively engaged in
22 business and that on at least fifty percent of its working days
23 during either of the two preceding calendar years, employed no
24 fewer than two and no more than fifty eligible employees;
25 provided that:

(1) in determining the number of eligible

1 employees, the spouse or dependent of an employee may, at the
2 employer's discretion, be counted as a separate employee;

3 (2) companies that are affiliated companies or
4 that are eligible to file a combined tax return for purposes of
5 state income taxation shall be considered one employer; and

6 (3) in the case of an employer that was not in
7 existence throughout a preceding calendar year, the
8 determination of whether the employer is a small or large
9 employer shall be based on the average number of employees that
10 it is reasonably expected to employ on working days in the
11 current calendar year;

12 X. "superintendent" means the superintendent of
13 insurance;

14 Y. "total premiums" means the total premiums for
15 business written in the state received during a calendar year;
16 and

17 Z. "unearned premiums" means the portion of a
18 premium previously paid for which the coverage period is in the
19 future. "